

REMARKS

Claims 1-34 are pending in the application. Claims 15-20 are allowed. Claims 21-34 were previously withdrawn from consideration. Claim 1 is amended. No new matter is added.

It is believed that the amendment to claim 1, which is described below, places all remaining claims (claims 1-20) in condition for allowance, and such allowance is respectfully requested.

Allowable Subject Matter

Claims 15-20 are indicated to be allowable over the prior art of record.

Claims 2-6 and 9-14 are objected to as being dependent upon a rejected base claim, but are indicated to be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims. At this time, the applicants elect not to amend claims 2-6 and 9-14 in this manner so that the amendment to claim 1 described below may be considered.

Claim Rejections – 35 USC § 103

Claims 1, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent 6,473,328 to Mercaldi (“Mercaldi”) in view of United States Patent 5,902,690 to Tracy et al. (“Tracy”). The applicants disagree.

Claim 1 is amended to recite, *inter alia*, an interlayer dielectric layer disposed on the insulation layer to cover sidewalls and a top surface of the magnetoresistive memory cell. This amendment is fully supported by the original application at, e.g., FIGs. 1, 2, and 3, where an interlayer dielectric layer 380 is disposed on the insulation layer 200 to cover sidewalls and a top surface of the magnetoresistive memory cell 320.

It is alleged that Mercaldi FIG. 9 discloses an interlayer dielectric layer 80 disposed on an insulation layer 71 to surround a magnetoresistive memory cell 81-83. However, contrary to amended claim 1, it is apparent from FIG. 9 that Mercaldi does not disclose an interlayer dielectric layer 80 disposed on an insulation layer 71 that covers a top surface of the magnetoresistive memory cell 81-83.

Furthermore, Tracy does not teach the feature of an interlayer dielectric layer 380 disposed on the insulation layer 200 to cover sidewalls and a top surface of the magnetoresistive memory cell.

Consequently, the Mercaldi/Tracy combination fails to establish a *prima facie* case of obviousness for claim 1 because the combination does not teach or suggest all the features recited in the claim. MPEP 2143.03.

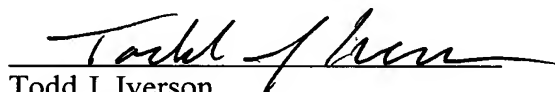
Claims 7 and 8 depend directly from claim 1. Consequently, the Mercaldi/Tracy combination also fails to establish *prima facie* obviousness for claims 7 and 8 because any claim that depends from a nonobvious independent claim is also nonobvious. MPEP 2143.03, citing In re Fine, 837 F.2d 1071 (Fed. Cir. 1988).

Conclusion

For the foregoing reasons, reconsideration and allowance of claims 1-20 of the application as amended is requested. Please telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Todd J. Iverson
Reg. No. 53,057

MARGER JOHNSON & McCOLLOM, P.C.
1030 SW Morrison Street
Portland, OR 97205
503-222-3613
Customer No. 20575